

REMARKS

Applicants respectfully request reconsideration of the instant application in view of the foregoing amendments and the following remarks. Claims 122-160 were previously pending in the application. Claims 122, 135, 136, 142, 148, 149, and 155 are independent claims. Applicants have added claim 161 to further clarify the distinctions between the instant invention and cited reference. Applicants submit that no new matter has been added.

Rejections under 35 USC § 103

Claims 122-160 have been rejected under 35 U.S.C. § 103(a), in view of US Patent Number 5,136,501 to Silverman ("Silverman"), and various instances of Official Notice. Applicants respectfully submit the cited reference fails to disclose or suggest each of the limitations of the pending claims.

New Independent claim 161 recites, *inter alia*:

A system comprising...a processor in communication with said storage device, said processor operative with said program to...
receive a conditional purchase offer from a customer...
receive a payment identifier specifying a financial account for use in providing payment for said goods or services, and authorization to charge said financial account, if said conditional purchase offer is accepted, wherein the financial account is a customer's credit card account and subsequently:
compare said conditional purchase offer with seller inventory and pricing information...if said conditional purchase offer is acceptable ...charge said financial account for payment....

Applicants respectfully submit that the instant rejections involve the use of impermissible hindsight to arrive at Applicants' claimed invention. In particular, Applicants respectfully submit that the instant § 103 rejection is centered on the purported disclosure of Silverman's securities exchange system that matches bids and offers to arrive at the Applicants' claimed invention. Furthermore, Applicants traverse the Examiner's Official Notice in the Office Action. For example, Applicants disagree that implementing a buyer-driven conditional purchase offer system as claimed, via the web, is old and known in the art. (See, for example, pages 7, 9, 10 or 12 of the Office Action). In the event that the Examiner continues to disagree, Applicants request that the Examiner provide a reference supporting her position.

Silverman is merely directed to a securities bid/offer exchange trading system, wherein the system's host computer rates possible bid/offer matches by checking system-defined credit controls. More specifically, "credit controls are used to determine the quantity of permissible matches at the lowest common credit limit and the best bid/ask price for the largest available quantity [of securities in] the present invention." (See, Silverman, Col. 6, lines 39-44). The credit controls implemented in Silverman's system simply fail to disclose or suggest Applicant's claimed invention.

Applicants' claimed invention is simply not directed to such a standard bid/offer exchange system. In contrast, Applicants' invention is directed to a system whereby a conditional purchase offer for goods or services and a financial account payment identifier are received from a customer, and subsequently the offer is compared to seller inventory and pricing information of a plurality of sellers of the goods or services to determine if the conditional purchase offer is acceptable. In order to provide an additional clarification of the claimed buyer-driven system, Applicants have added new claim 161 which recites, "receive[ing] a payment identifier specifying a

financial account for use in providing payment for said goods or services, and authorization to charge said financial account, if said conditional purchase offer is accepted, wherein the financial account is a customer's credit card account...." Applicants submit that Silverman simply does not teach, disclose or suggest the system receiving any type of financial account information, for example a customer's own credit card account information, and authorization to charge said card if the purchase offer is accepted. Therefore, Applicants submit that the credit controls discussed in Silverman simply fail to disclose or suggest Applicant's claimed invention.

CONCLUSION

As such, Applicants submit the claimed invention recited in independent claims 122, 135, 136, 142, 148, 149, 155 and new claim 161 are clearly patentably distinct from the cited references for at least this reason, among others. Furthermore, in view of the fact that each of the independent claims of the instant application are distinguishable from the cited references for the aforementioned reasons, Applicants submit that the dependent claims of the instant application are also distinguishable for at least similar reasons. Accordingly, Applicants request withdrawal of this ground of rejections.

AUTHORIZATION

The Commissioner is hereby authorized to charge any additional fees which may be required for consideration of this Amendment to Deposit Account No. 03-1240, Order No. 17200-052. In the event that an additional extension of time is required, or which may be required in addition to that requested in a petition for an extension of time, the Commissioner is requested to grant a petition for that extension of time which is required to make this response timely and is hereby authorized to charge any fee for such an extension of time or credit any overpayment for an extension of time to Deposit Account No. 03-1240, Order No. 17200-052.

Respectfully Submitted,
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